

REMARKS/ARGUMENTS

Claims 23-28 and 30-43 are active in this application.

Support for the amendment to Claim 23 is found on page 3 of the specification.

Support for the amendments to Claims 30 and 34 is found on pages 9-10 of the specification.

A period has been added to Claims 40 and 41 as requested by the Office on page 3 of the Official Action.

Support for Claims 42 and 43 is found on page 6 of the specification.

No new matter is added by these amendments.

The rejection of Claims 23, 25-28, 33 and 40 under 34 USC 102(b) in view of Chang et al is respectfully traversed.

Chang et al appear to describe a mutated/inactivated *poxB* gene and culturing the bacteria containing this mutation. Chang et al does not explicitly describe producing L-amino acids. As stated by the Office on page 18 of the Official Action, Chang et al does not teach isolation of L-amino acids but describes making a cell-free extract. Chang et al, however, do not describe concentration the L-amino acid in the medium and/or the *Escherichia* cells as claimed. Moreover, there is nothing in Chang which would lead one to do such as concentration step as the purpose of Chang et al is to study pyruvate oxidase activity.

Accordingly, withdrawal of this rejection is requested.

The rejection of Claims 23-28, 30-34 and 39-41 under 35 USC 103(a) in view of the combination of Riepling et al (U.S. patent no. 6,916,637), Dusch et al (U.S. publication 2005/0196848), Chang et al, and Grabau et al is respectfully traversed.

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Both Riepling et al and Dusch et al are available as prior art under 35 USC 102(e) due to their earlier filing dates. However, Riepling et al and Dusch et al were commonly owned or subject to common ownership to the assignee of the present application at the time the inventions were made for each of Riepling et al, Dusch et al and the present application.

Accordingly, withdrawal of this rejection is requested.

The rejections under 35 USC 112, first paragraph (written description and enablement) are respectfully traversed.

In particular, the *poxB* gene which is inactivated is inactivated in an *Escherichia* microorganism. In view of the specification describing the *Escherichia* *poxB* gene and the protein encoded thereby, Applicants request withdrawal of the rejections.

The rejection under 35 USC 112, second paragraph is believed to be no longer applicable in light of the amendments submitted herein.

In particular, Claim 23 has been clarified to indicate insertional mutagenesis in the *poxB* gene, the term “elimination” has been replaced with –inactivation—as suggested by the Office, Claim 34 has been amended to remove “the,” and Claim 40 has been amended to remove the “, and” as no additional text was intended.

Withdrawal of this rejection is requested.

To the provisional rejections under the doctrine of obviousness-type double patenting, Applicants note that application identified as [c] on page 12 of the Office Action is the same as the present application, therefore no action is deemed necessary here.

Application serial nos. 10/114,048 and 10/186,999 (identified as [w] and [z] in the Office Action) are indicated as being abandoned according to the USPTO PAIR system.

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Application serial no. 10/619,309 (identified as [o] in the Office Action) is not relevant to the claims of this application and is also indicated as being abandoned by the USPTO.

With respect to the remaining co-pending applications, Applicants request that these rejections be held in abeyance since the alleged conflicting claims have not yet been patented—see MPEP § 822.01.

Should the Examiner wish to discuss any aspect of this application, he is invited to contact the Applicants' undersigned representative.

A Notice of Allowance is requested.

Respectfully submitted,

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